

**Testimony for the House Tax Policy Committee  
on S.B. 877  
Michael Miotke, President, B&M Tower Technologies, Inc.  
May 2, 2018**

My name is Mike Miotke, and I am the President of B&M Tower Technologies, Inc.

B&M Tower is a Michigan company located in Fenton, Michigan. I am here to speak in support of S.B. 877. SB 877 is needed in order to stop the Department of Treasury from demanding use tax from installers of equipment. We are talking about equipment that is purchased and provided by our customers.

B&M provides equipment installation services to cellular providers, such as Sprint and AT&T. The equipment, mainly antennas and radios, are installed on cell phone towers. We work in Michigan, as well in other states. The equipment we install is frequently replaced as the carriers improve their networks and upgrade their service. In 2016, we were audited by the Department, and repeatedly asked for the cost of the equipment we installed. We told the Department that we did not know the cost of the equipment, as the equipment had been purchased by the service providers, and was owned by the cellular providers. We are instructed to pick up the equipment at our customer's warehouse, and then install the equipment at the cell tower sites. Under the terms of our contracts with the carriers, they are responsible for the payment of any sales and use tax due. We do not "use" the equipment, it is used by the cellular providers. We merely install the equipment. We do not know how much our customers paid for the equipment.

Despite this, the Department assessed us over \$50,000 dollars in use tax on the equipment that was purchased by our customers, and used by our customers in providing cellular telephone service. The amount of tax assessed is over \$50,000. The Department also assessed interest.

We had been previously audited by the Department and they had not assessed us use tax on this equipment before. We tried to explain to the Department that we did not purchase the equipment, and that if they needed to determine if tax had been paid on the equipment, they should contact the cellular providers. In order to appeal the assessment, we had to hire lawyers and it has taken a lot of time away from my business to respond to all the legal discovery the Department requested. I had my deposition taken, as well as the deposition of several of my employees. I have had to pay legal fees and court costs. My case is in appeal. This equipment is very expensive, and if we have to pay use tax simply because we installed the equipment, we will not be able to continue to do work in Michigan. We have not had this issue in any other state in which we work. Our customers are very large, national cellular carriers, and we are not in the situation that we can demand "proof" that tax was paid in order to do our work.

Thank you for taking the time to listen to why SB 877 is so important. I can answer any questions you may have.